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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,671	10/29/2003	Wolfgang Brunke	P2002,0917	6729
21495	7590	09/20/2004	EXAMINER	
CORNING CABLE SYSTEMS LLC			NASRI, JAVAID H	
P O BOX 489			ART UNIT	PAPER NUMBER
HICKORY, NC 28603			2839	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/695,671

Applicant(s)

BRUNKE ET AL.

Examiner

Javaid Nasri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/29/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- a) All three applicants have not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a) The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
  - b) In claim 1, lines 1, 3 and 4, it is not clear “which” is referring to what?

**Note: These are few examples only. Applicant is required to check all the claims and correct them accordingly.**

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by DE 36 32 849 (cited in IDS).

DE 36 32 849 discloses, **for claim 1**, an optical fiber cable with a cable core, which shows at least one optical transmission element, with a cable jacket (8) surrounding the cable core and with a plastic film (7) surrounding the cable core, which is in contact with the cable jacket and which shows a material, which is also contained in the cable jacket (see col. 2, lines 4-22), which glues it to the cable jacket during extrusion of the cable jacket, **for claim 2**, the cable jacket and the plastic film containing at least one common material from a group having polyethylene, polypropylene or polyvinyl chloride (see col. 2, lines 4-22).

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by DE 43 34 232 (cited in IDS).

DE 43 34 232 discloses, **for claim 1**, an optical fiber cable with a cable core, which shows at least one optical transmission element, with a cable jacket (AM) surrounding the cable core and with a plastic film (SK) surrounding the cable core, which is in contact with the cable jacket and

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which shows a material, which is also contained in the cable jacket, which glues it to the cable jacket during extrusion of the cable jacket, **for claim 2**, the cable jacket and the plastic film containing at least one common material from a group having polyethylene, polypropylene or polyvinyl chloride.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al. (4,729,629).

Saito et al discloses, **for claim 1**, an optical fiber cable with a cable core, which shows at least one optical transmission element, with a cable jacket (18) surrounding the cable core and with a plastic film (14) surrounding the cable core, which is in contact with the cable jacket and which shows a material, which is also contained in the cable jacket, which glues (17) it to the cable jacket during extrusion of the cable jacket, **for claim 2**, the cable jacket and the plastic film containing at least one common material from a group having polyethylene, polypropylene or polyvinyl chloride.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 36 32 849.

DE 36 32 849 discloses all the structural limitations of claim 4 as shown above, however, DE 36 32 849 does not describe the process for manufacture as claimed. The claimed process language

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is counter part of the apparatus claimed. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to develop a particular process for the disclosed apparatus of the cited references.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 43 34 232.

DE 43 34 232 discloses all the structural limitations of claim 4 as shown above, however, DE 43 34 232 does not describe the process for manufacture as claimed. The claimed process language is counter part of the apparatus claimed. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to develop a particular process for the disclosed apparatus of the cited references.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al.

Saito et al discloses all the structural limitations of claim 4 as shown above, however, Saito et al does not describe the process for manufacture as claimed. The claimed process language is counter part of the apparatus claimed. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to develop a particular process for the disclosed apparatus of the cited references.

***Allowable Subject Matter***

12. Claims 3 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### **REASONS FOR ALLOWANCE**

13. The following is an examiner's statement of reasons for allowance:

The reason for allowance of the claims is the inclusion of the limitation,

- a) For claims 3 and 5, none of the prior art teaches or suggest, alone or in combination the cable core containing a filling compound, which has a drip point below the extrusion temperature of the cable jacket, in combination with other limitations in the claim which is not found in the prior art reference of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Contact***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javaid Nasri whose telephone number is 571 272 2095. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tulsidas C. Patel can be reached on 571 272 2800 ext 39. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any correspondence to this action may be mailed to:**


**Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450**

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

**Or faxed to:** 703-308-7722 or 308-7724 (informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

**Hand-delivered responses should be brought to:**

**Crystal Plaza 4, Fourth Floor (receptionist)  
2201 South Clark Place, Arlington, Virginia**

  
Javaid Nasri  
Primary Examiner  
Art Unit 2839

JN  
jhn  
September 15, 2004